***THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

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W.P.No.26851 of 2005

% 27-12-2005

Between:

J.Mogilaiah S/o.Mallaiah

…Petitioner

And

$ The Project Officer,

Integrated Tribal Development Agency,

Eturunagaram, Warangal District. & others

…Respondents

! COUNSEL FOR PETITIONERS: Mr.M.KONDAL REDDY

^ COUNSEL FOR RESPONDENTS: GOVERNMENT PLEADER FOR SOCIAL WELFARE

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> Head Note:

? CITATIONS:

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.26851 OF 2005

Dated 27th December 2005

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.26851 OF 2005

O R D E R:

The petitioner was appointed as Daily Wage Teacher, by the District Tribal Welfare Officer, the second respondent herein, on 26.2.1991, and was posted at Ashram Upper Primary School, Komatipally. Alleging that he is entitled to be appointed on regular basis, he filed Writ Petition No.28537 of 1996, and an interim order was passed on 30.12.1996. Petitioner filed Contempt

Case No.538 of 1997, alleging that the interim orders were not complied with. At that stage, the first respondent issued orders dated 6.8.1997, appointing the petitioner on regular basis in a scale of pay, against an existing vacancy. Subsequently, his

appointment was regularized, through proceedings dated 14.9.2001, with effect from 6.8.1997.

Petitioner made a representation dated 14.12.2004, seeking regularization with effect from 26.2.1991, and for payment of the consequential benefits. Alleging that the representation was not considered, he filed W.P.No.25228 of 2004. The writ petition was disposed of on 31.12.2004, directing the respondents therein to pass appropriate orders. In obedience to the Court, the first respondent passed an order dated 24.7.2005, rejecting the claim of the petitioner. The same is challenged in this writ petition.

Sri M.Kondal Rao, learned counsel for the petitioner, submits that the petitioner was appointed way back on 26.2.1991 as a Teacher on daily wage basis, and as per the Scheme, prevalent at the relevant point of time, he was entitled to be regularized, with effect from the date of initial engagement. He submits that the reasons furnished by the first respondent in rejecting the claim cannot be sustained in law.

Learned Government Pleader for Social Welfare, on the other hand, submits that the claim of the petitioner is absolutely without any basis. He contends that even according to the relevant Government Orders, a daily wage employee was entitled to be regularized, with effect from the date which falls, on completion of
5 years, and not earlier thereto. He contends that the orders passed by this Court, on an earlier occasion, operate as *res judicata*.

In the impugned order, it was observed that under G.O.Ms.No.275, Social Welfare Department, dated 5.11.1986, posts in Ashram Schools, in the scheduled areas, were required to be filled by Scheduled Tribe candidates, and the petitioner, who belongs to Backward Class community, was not eligible to be appointed on daily wage basis, at all. That, however, is besides the issue, in the present context. A perusal of the relief claimed by the petitioner in W.P.No.28537 of 1996, discloses that he wanted the respondents herein, to regularize his service, with effect from 25.2.1996, on which date he has completed 5 years of uninterrupted service. An interim order was passed therein, and the petitioner filed contempt case, alleging non-implementation thereof. It was at that stage that the first respondent passed order dated 6.8.1997, appointing the petitioner as a teacher, on regular basis. The same was taken note of, and the writ petition was closed on 3.11.1999.

In the teeth of the prayer in W.P.No.28537 of 1996, it was not open to the petitioner

to claim regularization from any point of time, before the completion of 5 years from the date of initial engagement. At any rate, if he had any grievance in this regard, he ought to have pointed out the same, when W.P.No.28537 of 1996 was disposed of. The order passed therein, operates as
res judicata.

The petitioner woke up after 5 years, and made a speculative representation, claiming regularization with effect from 26.2.1991, as well as consequential monetary benefits. To say the least, the claim of the petitioner is preposterous, and he has indulged in vexatious litigation. Even now, he is not able to show any basis for his claim. The only object for the petitioner appears to be to derive more and more benefits, at any cost. This Court does not approve the conduct of the petitioner.

The writ petition is accordingly dismissed, with costs of Rs.2,000/- (two thousand), payable to the first respondent.

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(**L.NARASIMHA REDDY, J)**

Dt.27th December 2005

Note: L.R.copies be marked.

(B/o)

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